

REMARKS

Before entry of this Amendment, claims 1-50 were pending in the application. Claims 1-12 and 29-50 have been withdrawn from examination. Applicants have added two new claims 51 and 52, which are dependent respectively on independent claim 13 and dependent claim 22. After entry of this Amendment, claims 13-28, 51 and 52 remain pending under examination. The number of total claims has been increased by two beyond the number for which payment previously had been made, and the payment for two additional dependent claims is submitted herewith. The number of independent claims has not been increased beyond the number for which payment previously had been made.

Applicants have considered the Examiner's Action of May 12, 2008, and the references cited therein. The following is a brief summary of the Action. Claims 22 and 23 were objected to under 37 CFR 1.75(s) as being in improper form because a multiple dependent claim cannot depend from a multiple dependent claim. Claims 13-16 and 24-26 were rejected under 35 U.S.C. 102(e) as being anticipated by Lucas (USP 6,996,538). Claims 17-21, 27 and 28 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lucas in view of Treyz (USP 6,587,835).

Applicants have amended claim 22 to eliminate its dependence on itself and therefore respectfully request withdrawal of the objection to claims 22 and 23.

For the reasons explained below, applicants respectfully traverse the rejection of claims 13-16 and 24-26 under 35 U.S.C. 102(e) as being anticipated by Lucas.

In contending that Lucas anticipates claim 13, lines 10 and 11 of paragraph 5 on page 3 of the May 2008 Office Action state that Lucas discloses (emphasis added):

providing at least one RFID STR within communication distance of said at least one smart tag (**fig. 5 depicts** an rfid reader);
providing a customer interface (**fig. 5 depicts** a customer interface);
providing a first computer configured to communicate with said at least one RFID STR and said customer interface (**fig. 5 depicts** a computer to communicate with the rfid reader);

However, Lucas' description of its Fig. 5 states at column 2, lines 33 – 34 that "FIG.5 illustrates a sample RFID portal and related computer equipment." Lucas' only description of any of the designating numerals appearing in Lucas Fig. 5 states at column 3, lines 34 – 44 (emphasis added):

Alternatively, supply closets or other storage areas can be outfitted with a Radio Frequency Identification (RFID) portal, as illustrated in **FIG. 5**. An **RFID portal (Block 500)** is similar in structure to airport security metal detectors, except that RFID portals can detect or scan RFID tags as such tags pass through a portal. The present invention can monitor RFID tag identifiers, including identifiers assigned to individuals, such that access to a storage area can be monitored, and items removed by an individual can be tracked **without any direct user interaction**.

The above description in Lucas fails to mention any customer interface. Lucas fails to explain what is represented by the graphic designated 501 or the graphic designated 502. Indeed, by stating that the Lucas invention operates **without any direct user interaction**, it is not surprising that Lucas would lack a customer interface. The above description in Lucas also fails to mention any computer that communicates with an RFID reader and said customer interface, and indeed the Office Action fails to show that Lucas discloses these elements of claim 13. Accordingly, Lucas cannot anticipate any of claims 13 – 28 for these reasons alone.

In contending that Lucas anticipates claim 13, lines 16 - 18 of paragraph 5 on page 3 of the May 2008 Office Action state that Lucas discloses (emphasis added):

configuring said customer interface to receive a customer request for a desired product and to transfer said customer request to at least one of said first computer and said at least one RFID STR; (col. 4, lines 19 – 29; discusses receiving supply requests);

However, Lucas col. 4, lines 19 – 29 merely states (emphasis added):

As Server 100 receives supply requests, Server 100 may request price quotes from several Manufacturer, Supplier, or Distributor 120's ("Distributor 120"). Distributor 120 may respond with quantity available, price, estimated delivery time, and other such information. Server 100 may then automatically evaluate each Distributor 120 response to find the best value given various factors associated with each customer request. When an appropriate Distributor 120 response is chosen, Server 100 may automatically arrange payment and shipping of requested supplies for Customer Inventory System 130.

The above description in Lucas says that Server 100 (Fig. 1) receives supply requests, and so presumably the Office Action is contending that Server 100 is a customer interface. However, Server 100 does not appear to be in communication with an RFID STR, and so is the Office Action then contending that Lucas System 130 is the first computer required by claim 13? If that is the case, then the Office Action's contentions regarding the RFID in Fig. 5 make no sense, and Lucas becomes deficient in those items. For Lucas column 3, lines 34 – 44 (quoted above) starts out with "Alternatively," making clear that what is depicted in Fig. 5 is an alternative embodiment. Accordingly, Lucas appears to fall short of disclosing everything in claim 13 either way and therefore cannot anticipate any of claims 13 – 28 for these reasons alone.

Applicants therefore respectfully submit that claims 13-16 and 24-26 are patentable under 35 U.S.C. 102(e) over Lucas.

For the reasons explained below, applicants respectfully traverse the rejection of claims 17-21, 27 and 28 under 35 U.S.C. 103(a) as being unpatentable over Lucas in view of Treyz.

Treyz fails to correct the deficiencies noted above in Lucas. Applicants therefore respectfully submit that claims 17-21, 27 and 28 are patentable under 35 U.S.C. 103(a) over Lucas in view of Treyz.

Applicants have added new claim 51 dependent on claim 13 in accordance with at least page 7, line 19 through page 8, line 2 of applicants' specification, and therefore no new matter has been added by this amendment. Applicants have added new claim 52 dependent on claim 22 in accordance with at least page 10, lines 17 – 31 of applicants' specification, and therefore no new matter has been added by this amendment.

The method for managing products in a supply chain as in claim new claim 51 monitors a publicly available computer network (such as the Internet) to acquire predictive data that is used to predict changes in consumer buying habits, then analyzes the predictive data to predict potential out-of-stock conditions based on said acquired predictive data. Nothing in the Lucas in view of Treyz combination either discloses or suggests any such method. Applicants therefore respectfully submit that claim 51 is patentable under 35 U.S.C. 103(a) over Lucas in view of Treyz.

The method for managing products in a supply chain as in claim new claim 52 determines whether more than one alternative product is in stock from more than one

respective source of alternative product and conducts an electronic auction to choose the alternative product that ultimately is transferred to the customer interface. Nothing in the Lucas in view of Treyz combination either discloses or suggest any such method. Applicants therefore respectfully submit that claim 52 is patentable under 35 U.S.C. 103(a) over Lucas in view of Treyz.

Applicants respectfully request reconsideration and reexamination of claims 13-28, 51 and 52, as presented herein, and submit that these claims are in condition for allowance and should be passed to issue.

If any fee or extension of time is required to obtain entry of this Amendment, the undersigned hereby petitions the Commissioner to grant any necessary time extension and authorizes charging Deposit Account No. 04-1403 for any such fee not submitted herewith.

Respectfully submitted,

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